

UNITED STATES DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Case Number 3:20-CV-00482-KDB-DSC

JOHNATHAN S. HENSLEY, on behalf of
himself and others similarly situated,

Plaintiff,

v.

CITY OF CHARLOTTE, a North Carolina
municipal corporation,

Defendant.

**PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, and for the reasons set forth in the accompanying Memorandum, Plaintiff Johnathan S. Hensley respectfully moves this Court for an Order preliminarily enjoining, during the pendency of this action, Defendant City of Charlotte, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with the above-listed (collectively, the “subject parties”) who receive actual notice of the order by personal service or otherwise, from disclosing, except as provided by 18 U.S.C.A. § 2721(b) and all of its subparts, any North Carolina DMV-349 motor vehicle crash report (“crash report”)

which shows the following information regarding any individual listed as a driver on the crash report: name; address (but not the 5-digit zip code); driver's license number; telephone number; or date of birth (collectively, "protected personal information").

In particular, Plaintiff requests an Order prohibiting the subject parties from the practice of freely distributing crash reports (which contain protected personal information) to any member of the public without first redacting all of the protected personal information shown on the crash report, unless a permissible purpose as set forth in 18 U.S.C. § 2721(b) is first certified.

As detailed in the accompanying memorandum and declaration attached thereto, Defendant has a police department, the Charlotte-Mecklenburg Police Department ("CMPD") which employs law enforcement officers who investigate motor vehicle crashes in the City of Charlotte and Mecklenburg County, North Carolina.

As part of those crash investigations, CMPD officers complete written crash reports. Then, in wholesale violation of the Driver's Privacy Protection Act of 1994, 18 U.S.C. §§ 2721-2725 ("DPPA"), Defendant routinely makes those crash reports (including protected personal information within those crash reports), freely available to any person without requiring any certification of a DPPA permissible purpose.

A preliminary injunction is necessary to stop Defendant's ongoing violation of the DPPA. Indeed—despite the facts that (1) Plaintiff's co-counsel wrote Defendant in October 2016 demanding that Defendant disclose protected personal information “only in a manner which is permissible under the DPPA,” and (2) this Court, on September 2, 2020, in *Gaston v. LexisNexis Risk Solutions, Inc.*, No. 5:16-cv-00009-KDB-DCK, entered summary judgment and a permanent injunction against the Defendants in that case, and specifically instructed that “*to the extent that CMPD provides such records to the public without redacting that personal information or limiting disclosure only for those uses permitted by the DPPA then it is in violation of the statute,*” 2020 U.S. Dist. LEXIS 160012 at *52-53 (emphasis added)—Defendant nevertheless continues to knowingly violate the DPPA.

WHEREFORE, Plaintiff requests that the Court enter a preliminary injunction as described herein, and for such other and further relief as the Court may deem just and proper.

Respectfully submitted, this the 4th day of November, 2020.

/s/ J. David Stradley

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